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Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Philippines: government uses law and policy to violate rights to peaceful assembly and association*

The Asian Legal Resource Centre (ALRC) and KARAPATAN Alliance for the Advancement of People's Rights – Philippines welcome the General Assembly's Resolution (A/HRC/RES/24/5) that recognizes the "importance of the freedoms of peaceful assembly and of association," and the role of civil society in "building peaceful, prosperous, and democratic" society. To be able to assemble freely and associate peacefully is important in having "good governance." Only when the rights to peaceful assembly and association are enjoyed can "transparency and accountability" be achieved.

While the General Assembly's Resolution obligates the Government to "respect and fully protect the rights of all individuals to assemble peacefully and associate freely", ALRC and Karapatan have observed targeted, systematic, and routine practices of the Government disregarding the rights to peaceful assembly and association of particular social groups. These social groups—"human rights defenders, trade unionists," and those "espousing minority of dissenting views" not only lack protection, their rights are violated in a targeted manner.

This pattern of targeted attacks on a particular social group is a denial, if not a violation, of their rights to peaceful assembly and association. This denial has undermined the "principles of the United Nations" on the role of civil society in upholding democratic values. ALRC and Karapatan are especially concerned about the following pattern: first, use of the martial law era law to repress peacefully assemblies; second, abuse of police and prosecutorial powers to justify filing of fabricated charges against activists; third, undermining of social movements, human rights groups, and trade unions.

Use of martial law era law

On 28 July 2014, thousands of protesters marched along Commonwealth Avenue, Quezon City, towards the House of Representatives (Congress). They were to protest against corruption under the government of President Benigno Aquino III. He was to give his State of the Nation Address (SONA). The protestors, however, were violently dispersed by the policemen; and protesters from outside Metro Manila who were to join the other protesters were prevented from entering major roads. Those already on major roads were blocked by around 10,000 police personnel, in addition to having their path blocked by container vans and fire trucks. The traffic police officers confiscated the driving licenses of vehicle drivers, even though there was insufficient evidence that they had violated traffic rules.

To justify their actions, the police argued that the protesters did not have a permit to hold a rally. Under the law – an Act Ensuring the Free Exercise by the People of Their Right Peaceable to Assemble and Petition the Government for Other Purposes (Batas Pambansa BP 880) – protesters are required to secure a permit from the local government before they can hold a protest. However, under the law, if it is the government that fails to act on the application for a rally permit within a period of time, the application is deemed approved, and the protesters are presumed to have complied fully with the law to hold the rally.

However, in most cases, as in this case, the Quezon City government has allegedly deliberately ignored acting on the request for the rally permit. In so doing, the police can then justify its dispersal—often in a violent, excessive, and disproportionate manner—of the protestors.

During the SONA protest, four persons, including the 12-year old daughter of one of the protesters, were arrested. Those arrested are Maria Luisa Garcia, 46; Rosita Labarez, 57; Rodel Tortola, 33; and Rodel Tortola's 12-year-old daughter, Rochel Ann. All of the protestors are residents of Barangay (village) Holy Spirit, Quezon City. The police used stun gun on Rodel and his daughter, Rochel Ann, while they were inside a *jeepney*. Labarez is the leader of Controlled Economic Zone Federation. Tortola is attached to Migrante International. They were only released after the National Union and People's Lawyers and Karapatan paralegals questioned the legality of their arrest.

When the protestors were dosed with water cannons, the Commission on Human Rights (CHR), which was monitoring the protest scene, called on the police to stop, but the call was ignored. Police continued to use water cannons on the protesters until they ran out of water supply. A complaint was filed at the CHR against the police for use of excessive and disproportionate force, but there has been no progress in relation to the complaint to date.

Abuse of police and prosecutorial powers

On numerous occasions, the ALRC has drawn the attention of the HR Council in its written submission highlighting the abuse of their powers by the police and prosecutors. During the 10th session, we noted the complicity of court judges in subverting the rules of criminal procedures to prosecute activists (A/HRC/10/NGO/89); during 19th session, we highlighted abuses of legal system (A/HRC/19/NGO/51); and during 27th session, we underlined the failure of the courts to prevent arbitrary detention (A/HRC/27/NGO/67).

In 2014, on separate incidents, two women activists were arrested and forced to endure dire and sub-human jail conditions during their pregnancy. On 27 March 2014, Andrea Rosal, who was 7-months pregnant, was arrested by agents of the National Bureau of Investigation (NBI) in Caloocan City, along with her companion, Edward Lazanas, while she was on her way for a pre-natal check-up. Rosal and Lazanas are peasant organizers in Laguna. Rosal was arrested with the use of an invalid warrant of arrest for murder and for kidnapping with murder. Lanzanas was arrested without warrant and is still detained without valid charges.

The charges on Rosal are based on the testimonial evidence of Erwin Rosales, an alleged former NPA. He claims to be the eyewitness of the crime. Rosales claim he is the widow of one of the victims. In his testimony, however, never did Rosales mention Rosal's involvement in the crime. Rosales is one of the many ready-to-testify witnesses under the custody of the military. Rosales is the military's witnesses, not only in Rosal's case, but also in three other sworn statements that implicates several individuals, mostly activists.

Another pregnant activist, Maria Miradel Torres, also endured the cramped jail cell of Taguig City Jail. On 20 June 2014, Torres, a member of the Gabriela women's group, was four months pregnant when she was arrested without warrant by the police. The police insisted that Torres is an NPA rebel using the aliases "Alex" and "Sydney." Despite Torres' repeated demand to see the warrant of arrest for used in her arrest, it was never shown to her. Inside the jail, the jail guards confiscated medicines and supplements related to her pregnancy.

Since June 2010, documentation by ALRC and Karapatan has revealed that about 700 persons have been arrested illegally and detained, most of them because of their human rights and development work. To date, there are 527 persons considered as political prisoners who are still detained in various detention facilities across the country. The ALRC and Karapatan have learned that these patterns of arrest, detention, and prosecution of human rights and political activists, mostly on fabricated charges, are also done by the police and military to acquire monetary reward.

In 2012, the Department of National Defence (DND) and the Department of Interior and Local Government (DILG) issued a Joint Order No. 14-2012. This Order contains the identities of "wanted communist leaders", with the corresponding bounty for their arrest amounting to over Php466 million. The ALRC and Karapatan are of the opinion that this policy legitimizes the illegal arrest, detention, and prosecution on fabricated charges, and it guarantees impunity to those who carry out the arrest. In effect, the Order gives legal basis to the government-sponsored moneymaking venture.

In the ALRC's previous submission, ALRC and Karapatan have drawn the Council's attention to the case of torture victim Rolly Panesa. He was arrested, tortured, and detained on 5 October 2012 (A/HRC/27/NGO/67, para. 8). The police and the military arrested him insisting that he is Benjamin Mendoza, who has a bounty of PhP5.6 million for his arrest.

Apart from Panesa, there are other persons who were arrested for purposes of acquiring reward money. Take the case of Manuel Esteban. Like Panesa, he was arrested using an arrest warrant under the name of a certain Eduardo Esteban, who has a reward of about PhP 5.8 million. Another victim, Reynaldo Ingal, a driver, was arrested under the name of Agaton Topacio, who has a reward of PhP 5 million for his capture. Topacio was arrested with Lourdes Quioc, whom the military claim is Eugenia Topacio, who has a reward of PhP 5 million. Quioc is only a cook.

Also included in the list are: Dionisio Almonte, a peasant organizer, and Dominiciano Muya, an agriculturist. Almonte, with a PhP 5 million bounty, was undergoing a medical treatment when he was arrested together with his wife. Muya, an agriculturist working for Rural Missionaries of the Philippines, has a bounty of PhP 4.8 million. Muya is also a

consultant for Salugpungan Ta Tanu Igkanugon Learning Center (STTILC), a community based school for indigenous children.

Apart from human rights and political activists, individuals who are part of the peace negotiations between the Government and the National Democratic Front (NDFP) also had reward money on their heads. Alston, in the March 2007 report, notes "the document, co-signed by senior military and police officials, calls upon "all members of the intelligence community to enhance a more comprehensive and concerted effort against the CPP/NPA/NDF (Communist Party of the Philippines/New People's Army/National Democratic Front)" (A/HRC/4/20/Add.3, para. 9). This document has given impetus to a government-sponsored moneymaking activity.

It explains that the arrest of Benito Tiamzon and Wilma Austria-Tiamzon, both peace consultants of the NDFP, as both "part of concerted effort against NDF" and to allegedly acquire Php10 million bounty for each of their arrests. On 22 March 2014, when Benito Tiamzon, Wilma Austria-Tiamzon, and five companions were arrested in Carcar, Cebu, they were facilitating relief and rehabilitation operations in Central and Eastern Visayas regions.

Another consultant, Roy Erecre, who has a Php 5.6 million reward, was also arrested in the Visayas. The arrest of these consultants has reportedly violated the Joint Agreement on Safety and Immunity Guarantees (JASIG), and the Government's disregard of the agreements made on the ongoing peace negotiations. In response to criticisms, the government amended the Joint Order by deleting the names of NDFP peace consultants, among them Wilma Austria-Tiamzon. It was supposedly "in recognition of the pending peace negotiations and conditions upon the existence of said peace negotiations." Austria-Tiamzon, however, remains in detention.

Impact on human rights and social movements

As shown in the first and second categories above, the ALRC and Karapatan are of the opinion that these patterns have targeted particular social groups, notably the human rights and political activists, whom the police and military have associated with the communist movement. The ALRC and Karapatan, therefore, express grave concern about the Government's policy and practices that, not only violate, but also deny protection to "persons espousing minority or dissenting views or beliefs" that the Government ought to protect.

Recommendations:

The ALRC and Karapatan urge the Council to draw the government's attention:

a) To the need for withdrawing its counter-insurgency program, *Oplan Bayanihan*. This program has been identified as one of the causes of violations;

b) To conduct a thorough review of all the criminal cases against human rights and political activists, and to withdraw those charges where there is evidence of the irregularities in the arrest, detention, and filing of charges;

c) To implement Alton's March 2007 recommendation for the military to cease their labelling of human rights and political activists as "members of front organizations of communists" and "enemies of the state";

d) To improve living conditions in jails and detention facilities.

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*KARAPATAN Alliance for the Advancement of People's Rights – Philippines NGO without consultative status, also shares the views expressed in this statement.